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Group Health Plans and Health Insurance Coverage: Interim Final Rules for Relating to Status as a Grandfathered Health Plan under the Patient Protection and Affordable Care Act

Comment On: HHS-OS-2010-0015-0001

Group Health Plans and Health Insurance Coverage: Interim Final Rules for Relating to Status as a Grandfathered Health Plan under the Patient Protection and Affordable Care Act

Document: HHS-OS-2010-0015-DRAFT-0041

Comment on FR Doc # 2010-14488

Submitter Information

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General Comment

On behalf of the NYS Insurance Department, comments on the Grandfathering interim final rules are attached.

Attachments

HHS-OS-2010-0015-DRAFT-0041.1: Comment on FR Doc # 2010-14488

**Comments for HHS on its Interim Final Rules relating to status as a
Grandfathered Health Plan
File Code 0C110 – 9991 - IFC**

- 1) It is unclear from the Interim Final Rules as to whether the rules are applicable to categories of groups in addition to employer groups such as associations. We favor uniformity in the group market and suggest that the rules be extended to all categories of recognized groups.
- 2) In addition to group and individual insurance, a number of states (including NY), have another category of health insurance known as blanket insurance. It is very similar to group insurance, however, it constitutes its own separate category. It is unclear from the Interim Final Rules as to whether the rules are applicable to blanket insurance. We favor uniformity in the health insurance market and suggest that the rules pertaining to group insurance be extended to also apply to blanket insurance.
- 3) We note that the Interim Final Rules did not address some issues related to enrollment in a grandfathered plan. We suggest that the rules clarify the following:
 - **Allowance for Family Members-** - § 1251(b) of PPACA and 45 CFR 147.140 (a)(4) use the undefined term “Family Member.” A number of states (including NY), have statutes and regulations that include several categories of dependents. For example, New York recognizes adopted children and stepchildren dependent upon the insured as eligible dependents. New York also recognizes same-sex spouses and domestic partners as eligible dependents. Are these categories of dependents to be included as part of the allowance for family members?
 - **Allowance for New Employees to Join Current Plan-** § 1251(c) of PPACA and 45 CFR 147.140 (b) permit new employees to join a grandfathered plan. A number of states (including NY), recognize categories of groups in addition to employer groups such as associations. Would the federal law and regulation permit a new association member or other non-employer group member to join a current grandfathered plan?
- 4) In the case where a health insurance issuer discontinues a class of policies in accordance with the permissible bases for non-renewal set forth in HIPAA, is the replacement policy eligible for grandfathering status?